

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

11 JEFFREY M. DANIELS,

1 :02-cv-05880-AWI-SMS-P

12 Plaintiff,

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS** (Doc. 84)

13 vs.

14 J. MARSHALL, et al.,

**ORDER GRANTING DEFENDANT
MARSHALL'S MOTION FOR SUMMARY
JUDGMENT** (Doc. 72)

15 Defendants.

**ORDER DISMISSING DEFENDANTS
JOHN DOE I AND JANE DOE (AKA
THOMPSON) FROM ACTION**

ORDER CONCLUDING ENTIRE ACTION

19 Plaintiff Jeffrey M. Daniels ("plaintiff") is a state
20 prisoner proceeding pro se and in forma pauperis in this civil
21 rights action pursuant to 42 U.S.C. § 1983. The matter was
22 referred to a United States Magistrate Judge pursuant to 28
23 U.S.C. § 636(b)(1)(B) and Local Rule 72-302.

24 On May 5, 2006, the Magistrate Judge filed Findings and
25 Recommendations that recommended Defendant Marshall's motion for
26 summary judgment be granted and Defendants John Doe I and Jane
27 Doe (aka Thompson) be dismissed from this action. The Findings
28

1 and Recommendations were served on the parties and contained
2 notice to the parties that any objections to the Findings and
3 Recommendations were to be filed within thirty days. On June 7,
4 2006, plaintiff filed an objection to the Magistrate Judge's
5 Findings and Recommendations.

6 In accordance with the provisions of 28 U.S.C. §
7 636(b) (1) (C) and Local Rule 73-305, this Court has conducted a de
8 novo review of this case. Having carefully reviewed the entire
9 file, the Court finds the Findings and Recommendations to be
10 supported by the record and by proper analysis. In plaintiff's
11 objections, plaintiff argues that prison officials had a duty to
12 comply with his request to mail \$5.00 to the United States
13 District Court for the Northern District of California and
14 forward plaintiff's mail. As pointed out by the Magistrate
15 Judge, the problem with plaintiff's complaint is that plaintiff
16 has failed to provide evidence that the named defendants were
17 responsible for not paying the \$5.00 or submitting a completed in
18 forma pauperis action to the Northern District. There can be no
19 liability under 42 U.S.C. § 1983 unless there is some affirmative
20 link or connection between a defendant's actions and the claimed
21 deprivation. Rizzo v. Goode, 423 U.S. 362 (1976); May v.
22 Enomoto, 633 F.2d 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588
23 F.2d 740, 743 (9th Cir. 1978). Thus, plaintiff's objections do
24 not provide a basis to not adopt the Findings and
25 Recommendations.

26 Accordingly, IT IS HEREBY ORDERED that:

27 1. The Findings and Recommendations, filed May 5, 2006, is
28 ADOPTED IN FULL;

1 2. Defendant Marshall's motion for summary judgment, filed
2 October 27, 2005, is GRANTED; and,

3 3. Defendants John Doe I and Jane Doe (aka Thompson) are
4 DISMISSED based on plaintiff's failure to timely obtain their
5 true identities and amend his complaint to name them, thus
6 CONCLUDING this action in its entirety.

7
8 IT IS SO ORDERED.

9 **Dated:** July 22, 2006
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/s/ Anthony W. Ishii
UNITED STATES DISTRICT JUDGE